

Appln. S.N. 10/697,615
Amdt. dated September 18, 2006
Reply to Office Action of May 18, 2006
Docket No. 10010217-3

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REMARKS

The Office Action of May 18, 2006 has been received and carefully reviewed. It is submitted that, by this Amendment, all bases of rejection are traversed and overcome. Upon entry of this Amendment, claims 1-7, 10-14, 16-25, 27, 30, 32-52 and 54-57 remain in the application. New claims 58-60 have been added in order to set forth additional specific embodiments of Applicant's invention. Reconsideration of the claims is respectfully requested.

Claims 54-57 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claims 54-57 also stand rejected under 35 U.S.C. 101 because the Examiner asserts that the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process. The Examiner states that the claims do not set forth any steps involved in the method/process, and as such, concludes that it is unclear what method/process Applicant is intending to encompass.

Applicant does not acquiesce to the Examiner's rejection, however, in order to expedite prosecution, Applicant has amended claims 54-57 to recite active, positive steps as suggested by the Examiner. As such, Applicant respectfully submits that the rejections of claims 54-57 under 35 U.S.C. 112, second paragraph and 35 U.S.C. 101 are traversed and overcome.

Claims 1-7, 10-13, 16, 17, 33, 34, 36, 43-46, 48-52, 56 and 57 stand rejected under 35 U.S.C. 102(e) as being anticipated by Klimowicz et al. (U.S. Patent 6,543,443). The Examiner states that Klimowicz teaches an applicator for delivering two or more different bioactive compositions. The Examiner asserts that Klimowicz teaches all of the elements as recited in Applicant's claims, **including an Inkjet dispenser** (emphasis added; Applicant strongly disagrees with this characterization by the Examiner, as will be discussed in further detail below).

Claims 19, 20, 22-25, 27, 30 and 32 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Klimowicz. The Examiner states that Klimowicz discloses

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the claimed invention except for the third ejection head. The Examiner concludes that the third ejection head would have been obvious to include.

Applicant respectfully disagrees with the Examiner's assertions that Klimowicz discloses the claimed invention, and that "the device of Klimowicz et al. works in a similar way" to Applicant's invention as defined in the claims. Klimowicz specifically teaches nebulizers having holes therein to dispense fluids. In sharp contrast, Applicant recites an inkjet dispenser. Applicant submits that the nebulizer of Klimowicz is **not an inkjet dispenser and does not "work in a similar way"** to the Inkjet dispenser recited by the Applicant.

Klimowicz states that, "the vibrating element 36 has the apertures 37 through which fluid is expelled when the element 36 is vibrated" (see Col.3, lines 29-31). One skilled in the art would be cognizant of the fact that the vibration in a piezoelectric nebulizer adds kinetic and thermal energy to the fluid. Such energy causes the fluid to atomize by sonic dissociation, or carries the fluid through the nozzle due to the momentum imparted by the vibrating element. The function of a nebulizer may be equated to throwing the contents of a bucket at a sieve, where there is neither a change in chamber volume, nor pressurization of the fluid. In sharp contrast to the Examiner's assertion on page 2 of the office action, Klimowicz **does not** teach or suggest that the nebulizer used in his device changes the chamber/reservoir volume, nor does he teach or suggest pressurization of a liquid in a chamber.

As previously stated, Applicant's invention as defined in independent claims 1, 19, 33, 43, 49 and 50 recites an inkjet dispenser, **not a nebulizer**. One skilled in the art recognizes that a piezoelectric inkjet dispenser, unlike a nebulizer, creates a droplet by changing the chamber volume, thereby pressurizing the volume which, in turn, causes the fluid to flow through the nozzle until the pressure is equalized. These precisely controlled pulses of the piezoelectric inkjet dispenser occur in rapid succession, and as such, the motion is sometimes referred to as a vibration. Unlike a nebulizer vibration, however, the piezoelectric inkjet dispenser uses pressure, which allows the ability to accurately and precisely meter the droplet volume.

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Applicant again submits that the Klimowicz nebulizer is not an inkjet dispenser, nor does it work in a similar manner as an inkjet dispenser. As such, it is submitted that Applicant's invention as defined in claims 1, 19, 33, 43, 49 and 50 and those claims depending therefrom, is not anticipated, taught or rendered obvious by Klimowicz either alone or in combination, and patentably defines over the art of record.

Claims 14, 21, 35 and 47 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Klimowicz in view of Voges (U.S. Patent 5,894,841). The Examiner admits that Klimowicz fails to teach a thermal inkjet dispenser. The Examiner asserts that Klimowicz teaches a piezoelectric inkjet dispenser (emphasis added; in actuality, Klimowicz teaches a nebulizer, not an inkjet dispenser), and that Voges teaches that thermal inkjet is an alternative to piezoelectric inkjet. The Examiner concludes that one skilled in the art would have used the thermal inkjet dispenser as an alternative to a piezoelectric inkjet dispenser.

Applicant submits that there is no motivation to combine the teachings of Klimowicz with Voges, as Klimowicz teaches nebulizer technology and Voges teaches inkjet technology. As previously stated, a nebulizer is not an inkjet dispenser, nor does it function in the same manner as a piezoelectric inkjet dispenser. Voges does not teach or suggest that a nebulizer may be used in place of the inkjet dispenser. In fact, Voges **teaches away** from a nebulizer when he states that, "the piezoelectric device generated a droplet by means of a *pressure wave* in the fluid..." (emphasis added, see Voges, Col. 4, lines 23-27). This teaching is in sharp contrast to the nebulizer of Klimowicz, in which energy (formed via vibration) causes the fluid to atomize by sonic dissociation, or carries the fluid through the nozzle due to the momentum imparted by the vibrating element. Neither of the references teaches nor suggests that a nebulizer is a suitable alternative for an inkjet dispenser.

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For all the reasons stated above, it is submitted that Applicant's invention as defined in claims 14, 21, 35 and 47 is not anticipated, taught or rendered obvious by Klimowicz in view of Voges, and patentably defines over the art of record.

Claims 18 and 37-41 stand rejected as being unpatentable over Klimowicz in view of Scheuch et al. (U.S. Patent Publication 2001/0037806). The Examiner reiterates the arguments regarding Klimowicz, but notes that Klimowicz fails to teach an input slot for removable memory electrically connected to the processor. The Examiner states the Scheuch teaches an applicator including a common slot for inserting memory. The Examiner further states that the Klimowicz/Scheuch combination teaches a keypad or touch screen mounted on the body of an inkjet dispenser.

Applicant again submits that Klimowicz does not teach an inkjet dispenser (rather, he teaches a nebulizer), and that the teachings of Scheuch do not supply this deficiency. For all the reasons stated above, it is submitted that Applicant's invention as defined in claims 18 and 37-41 is not anticipated, taught or rendered obvious by Klimowicz in view of Scheuch, and patentably defines over the art of record.

Claim 42 stands rejected as being unpatentable over Klimowicz in view of Scheuch, and further in view of Voges. The Examiner reiterates his conclusion on the combination of Klimowicz and Scheuch, but admits that the combination fails to teach that the inkjet dispenser is a thermal inkjet dispenser. The Examiner states that Voges teaches a thermal inkjet dispenser that may be used as an alternative to using a piezoelectric inkjet dispenser.

Applicant reiterates the above argument regarding the combinations of Klimowicz and Voges, and Klimowicz and Schuech. As one would not be led to combine Klimowicz (nebulizer) with Voges (inkjet dispenser), it is submitted that one would also not be led to combine Klimowicz and Schuech with Voges. It is submitted that Scheuch does not supply the motivation to combine Klimowicz with Voges.

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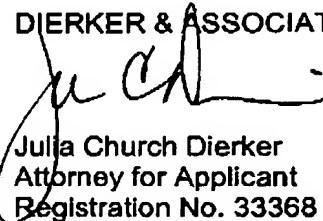
For all the reasons stated above, it is submitted that Applicant's invention as defined in claim 42 is not anticipated, taught or rendered obvious by Klimowicz in view of Schuech and Voges, and patentably defines over the art of record.

In summary, claims 1-7, 10-14, 16-25, 27, 30, 32-52 and 54-57 remain in the application. New claims 58-60 have been added. It is submitted that, through this amendment, Applicant's invention as set forth in these claims is now in a condition suitable for allowance.

Further and favorable consideration is requested. If the Examiner believes it would expedite prosecution of the above-identified application, he is cordially invited to contact Applicant's Attorney at the below-listed telephone number.

Respectfully submitted,

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